

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC. CIVIL APPLN. (CONTEMPT PETITION) No 79 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE S.M.SONI

and

MR.JUSTICE R.R.JAIN

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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NURUDIN IBRAHIMBHAI SADIKOT

Versus

ASGARALI D TRUNKWALA

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Appearance:

MR HJ NANAVATI for Petitioner  
MR MANOJ N POPAT for Respondent No. 1  
SERVED for Respondent No. 2

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CORAM : MR.JUSTICE S.M.SONI and  
MR.JUSTICE R.R.JAIN

Date of decision: 20/09/96

Oral Judgment (Per Soni, J.)

Alleging noncompliance of the order dated 4.9.1993 passed by the Gujarat Secondary Education Tribunal in

Application No.42 of 1992 the present application is filed under the Contempt of Courts Act. The Education Tribunal by the said order has directed that "the applicant shall be reinstated with effect from 6.9.1993 and the period between 10.1.1992 and 4.9.1993 shall be considered as a period of notional service to which the applicant shall not receive salaries but for this period he shall get other benefits like earning of increments, etc."

This Court has initially issued notice. After issuance of notice, it appears from the record that on 25.4.1994 the respondent Principal has deposited Rs.10,000/- by tendering a cheque drawn in the name of the Registrar for the said amount. Thereafter, it appears that Rs.15,000/- are deposited.

This Court has taken view in the case of Girish Chandra Bhatt, 1996 (1) GLR 523 that the orders passed by Education Tribunal are executable. The Supreme Court in the case of the Alahar Cooperative Credit Service Society v. Sham Lal, 1995 (2) GLH, 550, has held that contempt is not a substitute for execution. Learned advocate for the petitioner has stated before the Court that the petitioner is already reinstated in service. The dispute which now survives, therefore, is difference of arrears of salary after giving credit to Rs.10,000/- and Rs.15,000/- deposited in this Court. In view of our judgment in the case of Girish Chandra Bhatt (supra), petitioner can execute the order as per provisions of the Civil Procedure Code. We, therefore, would not like to take action in this matter under the Contempt of Courts Act as alternative remedy is available. The application is, therefore, not maintainable and is liable to be dismissed.

In the result, the application is dismissed. Rule is discharged. The petitioner will be at liberty to withdraw the amounts deposited by the respondent in this Court in this proceedings. Office is directed to pay the said amount to the petitioner on his application and proper verification thereof. There shall be no order as to costs.